

JUL 29 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALSJUDICIAL COUNCIL
OF THE NINTH CIRCUIT

IN RE COMPLAINT OF

JUDICIAL MISCONDUCT

No. 11-90097

ORDER

KOZINSKI, Chief Judge:

Complainant, a pro se prisoner, alleges that a magistrate judge committed misconduct by denying his motion for extension of time to file a habeas petition. This charge relates directly to the merits of a judge's ruling and is therefore not cognizable in judicial misconduct proceedings. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 630 F.3d 1262, 1262 (9th Cir. Jud. Council 2011).

Complainant also alleges that his "sentence appeal" was incorrectly assigned to the civil docket. He is mistaken: Although habeas proceedings relate to underlying criminal convictions, they are civil in nature. See Fisher v. Baker, 203 U.S. 174, 181 (1906) ("The proceeding is in habeas corpus, and is a civil, and not a criminal, proceeding."). In any event, docket numbers are assigned by court staff, not by judges. In re Complaint of Judicial Misconduct, 630 F.3d at 1263. The misconduct procedures apply only to federal judges, not staff. See Judicial-

Conduct Rule 4.

Finally, complainant seems to allege that the magistrate judge did not sign certain documents filed in his case, including the order denying him an extension of time to file a habeas petition. Judges aren't required to sign their orders or any of the other documents about which complainant expresses concern. Failing to do so, therefore, isn't "prejudicial to the effective and expeditious administration of the business of the courts." Judicial-Conduct Rule 11(c)(1)(A); see also In re Complaint of Judicial Misconduct, 569 F.3d 1093, 1093 (9th Cir. Jud. Council 2009).

DISMISSED.